MULTIMEDIA UNIVERSITY

STUDENT IDENTIFICATION NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2015/2016

PLC0015 – INTRODUCTION TO COMMERCIAL LAW

(All Sections/ Groups)

2 June 2016
2:30 p.m. – 4:30 p.m.
(2 Hours)

INSTRUCTIONS TO STUDENTS

1. This Question paper consists of Six (6) pages.
2. Answer **All** questions.
3. All answers should be written in the Answer Booklet.

SECTION A: TRUE/FALSE QUESTIONS [15 MARKS]

1. Advertisement to sell goods is a proposal from the seller and a contract is made when a customer made an acceptance.

2. Generally, in all business or commercial agreements there is a presumption that the parties have the intention to create a legal binding contract.

3. In Mohori Bibee v Dhurmodas Ghose (1903) 30 Cal 539; 30 IA 114, PC, the Privy Council held that the effect of an agreement entered into by a minor is voidable.

4. Jacob is an old man enfeebled by disease. He agrees to pay his doctor, an unreasonable sum for his professional services. Dr Zuriel has exercised undue influence over Jacob.

5. The following states each have a Constitution: Perak, Penang, Pahang, Perlis.

6. This law is a Substantive Law: Defamation Act 1957

7. Public law has been further divided into namely, Constitutional law, Administrative law and Civil law.

8. The vertical operation of stare decisis is where a superior court is bound by its own previous decisions & the decisions of courts of a higher jurisdiction.

9. Leah has decided to end her marriage with her husband, Issac. She intends to claim their matrimonial home worth RM 1.5 million as part of the settlement. You advise her that she should go to the High Court as only the High Court has the necessary jurisdiction to hear this matter.

10. An agent is said to have an apparent authority when a principal has done something either by words or actions that appears to a Third Party that the agent had been appointed to be an agent to act on the principal's behalf.

11. Section 2 of the *Sale of Goods Act 1957* (Revised 1989) [Act 382] defines price as 'the money consideration for a sale of goods'. This means the consideration in sale of goods must involve money either wholly or partly.

12. In hire-purchase, the ownership of the goods remain with the owner until the hirer has fully paid the price while in sale of goods the ownership of the goods is transferred to the buyer once the contract is concluded.

Continued...

13. In hire-purchase transactions, especially involving motor vehicles, the owner is normally a finance company. The finance company buys the goods from the dealer and steps into the dealer's shoes as the new owner.

14. Agency by ratification is formed when a principal and an agent expressly agree to enter into an agency agreement with each other.

15. An executed contract of sale is a contract of sale with transfer of ownership.

SECTION B: MULTIPLE CHOICE QUESTIONS [15 MARKS]

16. A hirer enters into two (2) hire-purchase agreements (A1, A2) with the same owner. The hirer must pay for A1- RM 75 and A2- RM 90 but, he has only RM 120 and do not have enough money to cover both agreements. In this situation, the hirer has the right to _____.
    A. appropriation of payments
    B. cancel the agreement
    C. pay only one agreement
    D. pay by instalment

17. Which of the following is not considered to be binding law?
    A. Acts
    B. Federal Constitution
    C. Judicial decisions
    D. Customs

18. Lily has suffered the loss of her two arms in a road accident last month. Which court would be the best and correct court for her to initiate legal proceedings?
    A. Special Court for Accidents
    B. Road Traffic Offences Tribunal
    C. Sessions Court
    D. High Court

19. _____ defines law as the command set by a superior being to an inferior being and enforced by sanctions.
    A. John Austin.
    B. John Salmond.
    C. Oxford English Dictionary.
    D. Austin Salmond.

Continued...

20. Public law refers to the law that regulates the relationship between the _____ and the legal action against the wrongdoer is undertaken at the instance of the _____.

A. citizens; courts
B. citizens; individual
C. citizen and the state
D. citizen and the legislature

21. The areas of law that may be categories into private law are:

i. Tort law ii. Criminal law
iii. Property law iv. Constitutional law

A. i & iii
B. i & iv
C. ii & iii
D. All the above

22. _____ regulates duties and powers of administrative authority or agencies of government such as ministries, government departments, local councils, public services and statutory bodies.

A. Civil law
B. Public law
C. Constitutional law
D. Administrative law

23. The duty of a buyer under a contract of sale of goods are:

i. to make payment to the buyer
ii. to take delivery of the goods from the buyer
iii. to accept delivery of the goods from the buyer

A. i & ii
B. i & iii
C. ii & iii
D. All of the above

Continued...

24. Which statement is **TRUE** about Contract of Sale?

i. A contract of sale is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price.
ii. A past contract of sale is a contract with transfer of ownership.
iii. An executory contract of sale is a pure and simple contract.
iv. The essence of a contract of sale is the transfer of custodial rights to the buyer.

A. i & iii
B. ii & iii
C. i, ii & iii
D. ii, iii & iv

25. The following statements are **TRUE** about Federal Legislation **EXCEPT**:

A. Federal legislation is applicable throughout Malaysia.
B. Federal legislation includes also laws enacted by the State Assemblies.
C. The nomenclature 'Act' is used referring to federal legislation enacted after 1959.
D. Federal legislation refers to laws enacted by Parliament under powers conferred on them by the Federal constitution.

26. The following are the powers of the session courts:

i. It hears all cases EXCEPT those punishable with death.
ii. It has appellate jurisdiction
iii. Amount in dispute/value of the subject matter below RM 1,000,000
iv. Unlimited monetary jurisdiction to try all actions & suits of a civil nature in respect of motor vehicle accidents; disputes between landlord and tenant; and distress proceedings

A. i, ii & iii
B. i, iii & iv
C. ii, iii & iv
D. All the above

27. *Adat Perpatih* practices _____ system of administration and stresses on the _____ system.

A. autocratic; patrilineal
B. autocratic; matrilineal
C. democratic; patrilineal
D. democratic; matrilineal

Continued...

28. David is Jason's employee. Jason did not appoint David as his agent. However, Jason instructs or allows David to order goods on his behalf from the supplier and Jason will pay for them. David is the _____ of Jason by _____.

    A. principal; implication.
    B. agent; express appointment.
    C. agent; implication.
    D. principal; express appointment.

29. Which of the following statements is **TRUE**?

    A. a contract is said to be induced by undue influence where the relationships subsisting between the parties are such that one of the parties is in a position to dominate the will of the other
    B. Misrepresentation is the committing or threatening to commit any act forbidden by the *Penal Code*; the unlawful detaining or threatening to detain, any property, to the prejudice of any person whatever.
    C. Fraud is the positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true
    D. Coercion can be defined as the suggestion, as to a fact, of that which is not true by one who does not believe it to be true.

30. An agreement _____ is void and unenforceable by law.

    A. made for unlawful consideration
    B. made unlawful object
    C. which has been declared to be void under the Contract Act 1950
    D. All the above

SECTION C: ANSWER ALL QUESTIONS [70 MARKS]

QUESTION 1 [20 MARKS]

(a) Name and explain the original jurisdiction of the court hearing an accident case. **(5 marks)**

(b) Gilbert failed to pay his rent amounting to RM85000.
Name and briefly explain the court jurisdiction in Gilbert's case. **(5 marks)**

(c) Zayn Malik was unfairly dismissed. Will his case be brought to the Natives Court? **(5 marks)**

(d) Distinguish between Civil Law and Criminal Law. **(5 marks)**

Continued...

QUESTION 2 [25 MARKS]

(a) Advise Rupert on the following matters:

(i) Rupert, a handsome and genius 15-year-old boy was granted by the JPA a scholarship to study Diploma at Nanyang University. Rupert was unable to adapt with the university life and finally quit from the University. JPA threaten to take legal action against Rupert. Rupert comes to see you for legal advice. **(8 marks)**

(ii) Rupert borrowed RM8,000 from Alvin and spent RM4,000 to buy a PS3. The balance was spent on a holiday in Indonesia. He failed to repay his loan to Alvin. Alvin threaten to take legal action against Rupert. Rupert comes to see you for legal advice.

(8marks)

(b) Hannah bought a painting from Jonker Walk at RM50. She then put up the painting for sale at an art exhibition at RM1,000. She described the painting as a classical art painting by Nigerian's renowned artist Jemba Lang. The painting shows the picture of 3 men wearing yellow shirts entitled 'Bersih: Yellow is a new black'. At the bottom of it was a signature that reads *Jambu*. Luke bought the painting and displayed it at his office. One day, Matthew who is a fan of Jemba Lang came to Luke's office. Upon being informed that it is by Jemba Lang, Matthew insist to buy the painting for RM10,000. Luke accept his offer and Matthew took the painting to his home. He then discovered that it was in fact not a painting by Jemba Lang.

Advise Luke and Matthew. **(9 marks)**

QUESTION 3 [25 MARKS]

(a) Diana negotiates the term of a hire-purchase agreement with Gondolaz, the manager of the company. Gondolaz needs to prepare the documents necessary for the transaction and ask for your help.

Advise Gondolaz on the procedure for the formation of a hire-purchase agreement.

(10 marks)

(b) What is meant by executory, executed and past consideration? Discuss

(15 marks)

End of Paper